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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,475	01/27/2004	Cyril Williams	23153.00	9147

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EXAMINER

BEACH, THOMAS A

ART UNIT PAPER NUMBER

3671

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*Office Action Summary*

Application No.

10/764,475

Applicant(s)

WILLIAMS, CYRIL

Examiner

Thomas A. Beach

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. Claims 1 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Messenger 3,107,446 in view of Fine et al 4,991,324. Messenger shows a snow shovel, having an elongated frame having an upper end and a lower end; a handle assembly mounted the upper end of the elongated frame; wheel assembly 1 mounted an intermediate portion of the frame; scoop release assembly fixedly mounted the lower end of the frame; and a scoop having a front scoop section 30, a rear section, and rearward facing mounting block fixedly attached the rear section, the mounting block 38 pivotally mounted within the scoop release assembly, whereby the scoop fixed operating position which the scoop is horizontally aligned with the scoop release assembly 45, and a second operating position in which the scoop freely rotates in a vertical plane (fig 7). Messenger does not show the upper end of the elongated frame to be telescoping; however, Fine shows a similar snow shovel 12 having an upper end of the elongated frame 32 to be telescoping with a handle 30 and wheel 62 (fig. 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Messenger, as taught by Fine, to include a telescoping upper end to allow for users of varying heights to utilize the invention, thus improving its adaptability and ease of use (Fine; col. 4, lines 26-34).

As concerns claim 8, shows the wheel assembly includes pair wheels, each the wheels rotatably connected to a wheel strut, each wheel strut pivotally mounted to a

wheel assembly mounting bar, whereby the wheels are pivotal from a position proximate to the frame to an extended position substantially normal to the frame (fig 8).

As concerns claim 9, shows the scoop mounting block 38 has transverse lip having a forward facing first lateral abutment surface and second rear facing arcuate abutment surface (fig 8).

As concerns claim 10, shows the scoop release assembly includes side, traversing member, and spring-loaded 48 latch between the left side and the right side.

As concerns claim 11, shows the snow shovel according to claim length of the elongated frame is adjustable (via openings 23, fig 1).

2. Claims 2-7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Messenger 3,107,446 and Fine et al 4,991,324 in view of Carlson 3,017,710. Messenger shows the handle assembly includes substantially horizontal handlebar having pair of spaced apart handles and stem depending from the center the handlebar, but does not show the stem pivotally mounted to the upper end the telescoping frame, such that the handle assembly can be adjusted in a vertical plane between pre-selected vertical angles relative to the frame. However, Carlson shows a similar shovel having a scoop and the handle assembly can be adjusted in a vertical plane between pre-selected vertical angles relative to the frame with adjustment mechanism handle angle handle stem and the upper end handle angle adjustment handlebar; whereby activation of the handle angle adjustment component permits the handle assembly angles relative to the frame (claim 5) the second elongated flexible member (claim 6) and with the handle angle adjustment component has plurality spring loaded pins securing the

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handle assembly to the frame (claim 7; fig 4 of Carlson). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Messenger, as taught by Carlson, to include an adjustable handle to easily accommodate users of varying height thus improve the adaptability of the shovel.

As concerns claim 3, the combination shows scoop release component mounted on the handlebars whereby activation of the scoop release component allows the scoop vertically rotate within the scoop release assembly between the first position and the second position (Messenger 47).

As concerns claim 4, the combination shows first elongated flexible member (50, Messenger) extending between the scoop release component and the scoop release assembly.

### ***Response to Arguments***

3. Applicant's arguments filed 06/16/05 have been fully considered but they are not persuasive in view of the new grounds of rejection above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Beach whose telephone number is 571.272.6988. The examiner can normally be reached on Monday-Friday, 8:00am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571.272.6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thomas A. Beach

September 6, 2005

**THOMAS A. BEACH**  
Patent Examiner  
Group 3600